REMARKS

In an Office Action dated December 21, 2004, the Examiner objected to the drawing. Applicant is submitting a red-ink marked corrected drawing and a final corrected drawing.

The Examiner objected to a misspelling in the Abstract. Applicant is correcting this misspelling. Applicants are also amending uses of DSL(s) to read DSLs for the simple plural.

The Examiner objected to claims 1-6 for a number of informalities. Applicant is correcting these claims.

Applicant is also correcting claim 2 which does not really make sense as submitted. The object of claim 2 was to indicate that an additional DSL line can be activated if the present level of cross-talk is below the unacceptable level. Claims 3 and 4 are also being amended to be consistent with Fig. 2.

The Examiner rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,970,088 (Chen) in view of U.S. Patent 6,393,052 (Sadjadpour). Applicant respectfully disagrees with the grounds for the rejection. As indicated by the Examiner:

> Chen discloses a system comprising a central office modem pool communicating with a plurality of subscriber modems where a subscriber end modem, considered to comprise a controller having means for requesting a bit rate for a DSL controlled by said controller, sends its rate capabilities and its preference to the central office end during a rate negotiations. The central office end comprises processor means for storing and analyzing bit rates and responds with its capabilities and rate selection, where the rate choice depends on line conditions and traffic load (as indicated on column 13, lines 12-21).

As stated in Chen column 5, lines 18-22:

> Using the rate negotiation method, the variable rate system adapts its throughput based on line conditions, computational capabilities, network accessibility, and application requirements.

The term "line conditions" clearly refers to the condition of the line itself, i.e., its length, wire gauge, etc. but does not imply the key element of Applicant's invention, namely the estimated crosstalk from other DSL lines in the same binder group.

As the Examiner admitted "...Chen does not expressly disclose detecting if the bit rates for all DSLs in the binder group correspond to an unacceptable level of crosstalk." To fill this gap, the Examiner quotes Sadjadpour as "disclosing a method for minimizing near end crosstalk (NEXT) where the NEXT is minimized while the data rate is optimized (function block 61, column 8, lines 19-21)." The cited reference states that "...function block 61, the shaded block, represents joint minimization of the NEXT and the maximization of the total data rate." In the case of Sadjapour, that total data rate is the total data rate for the connected line. Block 61 is an arrangement for maximizing that data rate while minimizing the crosstalk to other lines. Thus, while the techniques of Sadjapour may be useful for minimizing the crosstalk from and to other DSLs, the techniques of Sadjapour do not teach arrangements for automatically limiting the throughput of a DSL based on the present status of other DSLs in the same binder group. Applicant's attorney has not been able to find references to a binder group in either of the cited patents.

The Examiner argues for all of the claims that the apparatus of Chen "is considered to be capable of performing the functional limitations of detecting if bit rates for all DSLs in a binder group correspond to an unacceptable level of crosstalk," as well as the functions of claims 2-6. Applicant respectfully disagrees: the mere presence of a processor does not teach all the functions that such a processor could perform. There must be some teaching to suggest the specific functions claimed by Applicant. As noted above, there is no teaching in Chen of limiting bit rates depending on the bit rates of other active DSLs in a binder group.

Applicant therefore respectfully submits that the subject matter of his claimed invention is not taught or suggested by the cited prior art references singly or in combination.

Accordingly, Applicant respectfully requests that the Examiner reconsider the grounds for his rejection, allow the application including all 6 claims as amended, and pass the application to issue.

If the Examiner feels that a voice or fax contact would help to advance the prosecution of this application, he is invited to contact Applicant's attorney at telephone number 630 469-3575.

Respectfully submitted

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Attached:
Red-ink marked amended drawing
Final amended drawing